

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR**

IN THE MATTER OF:

PAUL LEWIS SCHUMACK, II,

Respondent.

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CASE NO. SEC-2014-119

**FINAL AGENCY DECISION BY
DEFAULT**

On February 3, 2016, the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), filed an Amended Notice of Agency Action and Opportunity for Hearing (Amended Notice) against Paul Lewis Schumack, II (Respondent). The Amended Notice alleged that Respondent violated §§ 30-10-201, 30-10-202, and 30-10-301.

Respondent did not answer or otherwise defend within 15 days of service of the Notice. On March 3, 2016, the CSI moved for entry of a final agency decision by default against Respondent.

Based upon the CSI's motion and attached Affidavits of Michael A. Kakuk and Deputy Securities Commissioner Lynne Egan, and the record in this matter, the Commissioner of Securities of Insurance, Office of the Montana State Auditor (Commissioner), makes the following determinations:

FINDINGS OF FACT

1. Respondent Paul L. Schumack, II, was the owner and operator of TBTI, Inc. (TBTI), a for-profit corporation organized under the laws of the State of Florida since 2001.
2. Respondent was the president of TBTI, Inc., at its inception, and served as its Vice President/Director in 2014.
3. Between December of 2012 and January of 2014, Respondent sold interests in “virtual concierge machines” to 18 Montana residents.
4. Respondent entered into 56 agreements with Montana residents for the sale of these machines. Under the agreements the purchases were “investments” and the virtual concierge machines were part of the Montana investors’ “investment portfolio[s].”
5. Respondent agreed to operate the machines, and to pay each Montana investor a specific return each month for the life of the agreement.
6. To date, Respondent and TBTI, Inc., have paid only a portion of the money owed under the agreements.
7. Under the terms of the 56 investment contracts signed by Respondent, Respondent and TBTI, Inc., owe Montana investors \$533,150.00 in unreturned principal.
8. Respondent is not now and has never been registered as a securities salesperson with the CSI.
9. The virtual concierge machine agreements are not currently and never have been registered as securities with the CSI.
10. On May 14, 2014, the CSI filed a Notice of Proposed Agency Action and Opportunity for Hearing (Notice) and a Temporary Cease and Desist Order (Order) against TBTI, Inc., and

Paul L. Schumack. The Notice and Order were sent to TBTI's principal place of business, which was also the residential address for Mr. Schumack.

11. On December 7, 2015, Respondent was found guilty of the following federal crimes related to the virtual concierge machine agreements: one count of conspiracy to commit wire and mail fraud, twelve counts of mail fraud, six counts of wire fraud, one count of conspiracy to commit money laundering, two counts of concealment money laundering, and one count of transactional money laundering.

12. On February 3, 2016, the CSI filed the Amended Notice of Agency Action and Opportunity for Hearing against Respondent. It was sent via both first-class and certified mail to Respondent and Respondent's federal public defender in Florida. The certified mailing to Respondent was delivered on February 6, 2016. The certified mailing to Mr. Natale was delivered on February 8, 2016.

13. The CSI has not received a demand for hearing, or any other communication, from Respondent or anyone else on Respondent's behalf.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to § 30-10-101 et seq.
2. A "person" is an individual, a corporation, a partnership, or an association. § 30-10-103(16).
3. Respondent is a person as defined under § 30-10-103(16).
4. An "investment contract" is a "security" under § 30-10-103(22)(a)(xii).
5. Under Montana law, an "investment contract" is "an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or

managerial efforts of others.” *State v. Duncan*, 181 Mont. 382, 392-93, 593 P.2d 1026, 1032-33 (1979); *State v. Redding*, 2012 MT 144A, ¶¶ 23-51, 281 P.3d 189.

6. The virtual concierge machine agreements were “investment contracts” and therefore securities under Montana law. *Id.*

7. It is unlawful for a person to transact business in Montana as a securities broker-dealer or a securities salesperson unless the person is registered with the CSI or subject to an exemption. § 30-10-201(1).

8. Respondent violated § 30-10-201(1) when he sold 56 securities in Montana without being properly registered or subject to a registration exemption.

9. It is unlawful for a person to offer or sell any security in Montana unless the security is registered with the CSI by notification, coordination, or qualification, or is subject to a federal exemption. § 30-10-202.

10. Respondent violated § 30-10-202 when he sold 56 securities in Montana that were not registered with the CSI by notification, coordination, or qualification, and did not qualify for a federal registration exemption.

11. It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, into Montana, to:

- a. employ any device, scheme, or artifice, to defraud;
- b. make an untrue statement of a material fact; or
- c. engage in any act, practice, or course of business that operates as a fraud or deceit upon any person. § 30-10-301(1).

12. Respondent violated § 30-10-301(1) when he entered into 56 investment contracts and promised to sell virtual concierge machines to Montana residents, operate those machines on


behalf of those Montana residents, and reimburse those Montana residents at the rates set in those investment contracts.

ORDER

Based on those findings of fact and conclusions of law, it is ORDERED that:

1. Respondent shall pay restitution in the amount of \$769,515.62 to the individuals identified in Exhibit A to the Affidavit of Lynne Egan.
2. Respondent shall pay a fine of \$280,000.00 to the State of Montana.
3. Respondent shall pay the CSI's investigative costs of \$1,189.20.
4. The restitution, fine, and investigative costs are due and owing upon the entering of this Final Agency Decision.
5. Respondent is permanently barred from any future attempt to apply for securities licensing or registration in the State of Montana.

DATED this 9th of March, 2016.



MONICA J. LINDEEN
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the Final Agency Decision by Default was sent by U.S. mail, postage paid, this 9th day of March, 2016, to the following:

Paul L. Schumack, II
FDC Miami
33 NE 4th Street
Miami, FL 33132

Anthony J. Natale
Federal Public Defender's Office
150 W Flagler Street, Suite 1500
Miami, FL 33130-1556

